

CHAPTER 35

PROBATE CODE AMENDMENTS

S.F. 275

AN ACT relating to the administration of an estate and changing certain notice provisions.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 633.35, Code 1989, is amended to read as follows:

633.35 REPORTS AND APPLICATIONS FOR ORDERS.

All petitions, reports, and applications for orders in probate must be in writing, verified, acknowledged or certified, and self-explanatory, so that the clerk or court from a perusal thereof may understand the relief sought without explanations. If the petition, report, or application is certified, substantially the following language shall be used: "I certify under penalty of perjury and pursuant to the laws of the state of Iowa that the preceding is true and correct."

Sec. 2. Section 633.230, Code 1989, is amended to read as follows:

633.230 NOTICE IN INTESTATE ESTATES.

In intestate matters, the administrator shall, as soon as letters are issued, shall cause to be published once each week for two consecutive weeks in a daily or weekly newspaper of general circulation published in the county in which the estate is pending, and at any time during the pendency of administration that the administrator has knowledge of the name and address of a person believed to own or possess a claim which will not or may not be paid or otherwise satisfied during administration, provide by ordinary mail to each such claimant at the claimant's last known address, a notice of appointment which shall be in substantially the following form:

NOTICE OF APPOINTMENT OF ADMINISTRATOR AND NOTICE TO CREDITORS

In the District Court of Iowa
in and for County.
In the Estate of
deceased

Probate No.
To All Persons Interested in the Estate of

deceased, who died on or about, 19...:

You are hereby notified that on the day of, 19..., the undersigned was appointed administrator of said the estate.

Notice is hereby given that all persons indebted to the estate are requested to make immediate payment to the undersigned, and creditors having claims against the estate shall file them with the clerk of the above named district court, as provided by law, duly authenticated, for allowance, and unless so filed within by the later to occur of four months from the second publication of this notice or one month from the date of the mailing of this notice (unless otherwise allowed or paid) a claim is thereafter forever barred.

Dated this day of, 19...

Administrator of said the estate

Address

Attorney for said the administrator

Address

Date of second publication

..... day of, 19...

(Date to be inserted by publisher)

Sec. 3. Section 633.304, Code 1989, is amended to read as follows:

633.304 NOTICE OF PROBATE OF WILL WITH ADMINISTRATION.

On admission of a will to probate, the executor shall, as soon as letters are issued, shall cause to be published once each week for two consecutive weeks in a daily or weekly newspaper of general circulation published in the county in which the estate is pending, and at any time during the pendency of administration that the executor has knowledge of the name and address of a person believed to own or possess a claim which will not or may not be paid or otherwise satisfied during administration, provide by ordinary mail to each such claimant at the claimant's last known address, and as soon as practicable give notice, except to any executor, by ordinary mail to the surviving spouse, each heir of the decedent and each devisee under the will admitted to probate whose identities are reasonably ascertainable, at such persons' last known addresses, a notice of admission of the will to probate and of the appointment of the executor, in which shall be included a notice that any action to set aside the probate of the will must be brought within the later to occur of four months from the date of the second publication of the notice or one month from the date of mailing of this notice or thereafter be forever barred, and in which shall be included a notice to debtors to make payment, and to creditors having claims against the estate to file them with the clerk within four months from the second publication of the notice, or thereafter be forever barred.

The notice shall be substantially in the following form:

Notice of Probate of Will, of Appointment of Executor, and Notice to Creditors

In the District Court of Iowa

in and for County. Probate No.
In the Estate of, Deceased
To All Persons Interested in the Estate of,
Deceased, who died on or about, 19....:

You are hereby notified that on the day of, 19...., the last will and testament of, deceased, bearing date of the day of, 19...., was admitted to probate in the above named court and that was appointed executor of the estate. Any action to set aside the will must be brought in the district court of said county within the later to occur of four months from the date of the second publication of this notice or one month from the date of mailing of this notice to all heirs of the decedent and devisees under the will whose identities are reasonably ascertainable, or thereafter be forever barred.

Notice is further given that all persons indebted to the estate are requested to make immediate payment to the undersigned, and creditors having claims against the estate shall file them with the clerk of the above named district court, as provided by law, duly authenticated, for allowance, and unless so filed within by the later to occur of four months from the second publication of this notice or one month from the date of mailing of this notice (unless otherwise allowed or paid) a claim is thereafter forever barred.

Dated this day of, 19....
.....
Executor of estate
.....
Address

.....
Attorney for executor
.....
Address
Date of second publication
..... day of, 19....
(Date to be inserted by publisher)

Sec. 4. Section 633.305, Code 1989, is amended to read as follows:

633.305 NOTICE IF NO ADMINISTRATION.

On admission of a will to probate without administration of the estate, and upon advanced payment of the costs by the proponent, the clerk shall cause to be published, in the manner prescribed in the preceding section, a notice of the admission of the will to probate. ~~in which~~ As soon as practicable following the admission of the will to probate, the proponent shall give notice of the admission of the will to probate by ordinary mail addressed to the surviving spouse, each heir of the decedent, and each devisee under the will admitted to probate whose identities are reasonably ascertainable, at such persons' last known addresses. The notice of the admission of the will to probate shall be included include a notice that any action to set aside the will must be brought within the later to occur of four months from the date of the second publication of the notice or one month from the date of mailing of this notice, or thereafter be barred.

The notice shall be substantially in the following form:

Notice of Proof of Will
Without Administration

In the District Court of Iowa
in and for County. Probate No.
In the Estate of, Deceased
To All Persons Interested in the Estate of.....
Deceased, who died on or about, 19....:

You are hereby notified that on the day of, 19...., the last will and testament of, deceased, bearing date of the day of, 19...., was admitted to probate in the above named court and there will be no present administration of the estate. Any action to set aside the will must be brought in the district court of ~~said~~ the county within the later to occur of four months from the date of the second publication of this notice or one month from the date of mailing of this notice to all heirs of the decedent and devisees under the will whose identities are reasonably ascertainable, or thereafter be forever barred.

Dated this day of, 19....
.....
Clerk of the district court

.....
Attorney for estate
.....
Address
Date of second publication
..... day of, 19....
(Date to be inserted by publisher)

Sec. 5. Section 633.309, Code 1989, is amended to read as follows:
633.309 TIME WITHIN WHICH ACTION MUST BE COMMENCED.

An action to contest or set aside the probate of a will must be commenced in the court in which the will was admitted to probate within the later to occur of four months from the date of second publication of notice of admission of the will to probate or one month following the mailing of the notice to all heirs of the decedent and devisees under the will whose identities are reasonably ascertainable, at such persons' last known addresses.

Sec. 6. Section 633.410, Code 1989, is amended to read as follows:
633.410 LIMITATION ON FILING CLAIMS AGAINST DECEDENT'S ESTATE.

All claims against a decedent's estate, other than charges, whether due or to become due, absolute or contingent, liquidated or unliquidated, founded on contract or otherwise, are forever barred against the estate, the personal representative, and the distributees of the estate, unless

filed with the clerk within the later to occur of four months after the date of the second publication of the notice to creditors or, as to each claimant whose identity is reasonably ascertainable, one month after service of notice by ordinary mail to the claimant's last known address. However, notice is not required to be given by mail to any creditor whose claim will be paid or otherwise satisfied during administration and the personal representative may waive this the limitation on filing provided under this section. This section does not bar claims for which there is insurance coverage, to the extent of the coverage, or claimants entitled to equitable relief due to peculiar circumstances.

Sec. 7. Section 633.434, Code 1989, is amended to read as follows:

633.434 PAYMENT OF DEBTS AND CHARGES AFTER EXPIRATION OF FOUR MONTHS' PERIOD.

The personal representative shall, as soon as practicable following appointment, make reasonably diligent efforts to ascertain the names and addresses of all persons believed to own or possess claims against a decedent's estate.

Upon the expiration of the later to occur of four months after the date of the second publication of notice to creditors or one month after the service of the notice by ordinary mail upon all claimants whose identities are reasonably ascertainable, at their last known addresses and whose claims will not or may not be paid or otherwise satisfied during administration, the personal representative shall pay the debts and charges against the estate in accordance with this code. If it appears at any time that the estate is or may be insolvent, that there are insufficient funds on hand, or that there is other good and sufficient cause, the personal representative may report that fact to the court and apply for any order that the personal representative deems necessary.

Sec. 8. Section 633.477, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 12. A statement as to whether all statutory requirements pertaining to claims have been complied with and a statement as to whether all claims, including charges, have been paid and whether a lien continues to exist on any property as security for any claim.

Approved April 20, 1989

CHAPTER 36

RECORDING OF FEDERAL LIENS

S.F. 276

AN ACT relating to the registration of federal liens.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 331.609, Code 1989, is amended to read as follows:

331.609 FEDERAL TAX LIENS.

1. a. Notices of liens, certificates, and other notices affecting federal tax liens or other federal liens must be filed or recorded in accordance with this section.

1 b. Notices of liens upon real property for taxes obligations payable to the United States, and certificates and notices affecting the liens shall be filed recorded in the office of the recorder of the county in which the real property subject to a federal tax lien is situated.

2 c. Notices of federal liens upon tangible or intangible personal property for taxes obligations payable to the United States and certificates and notices affecting the liens shall be filed or recorded as follows: